

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DANIEL BRYAN KELLY,)	
)	
Plaintiff,)	
v.)	2:05-CV-1150-MHT
)	wo
RICKY OWENS, et al.,)	
)	
)	
Defendants.)	

ORDER

This litigation is now before the court on the recommendation of the United States Magistrate Judge entered on November 9, 2006 (Doc. 68). After a review of the recommendation, to which no timely objections have been filed, and after an independent review of the entire record, the court believes that the recommendation should be and is hereby adopted. It is hereby

ORDERED that:

A. The *Motion to Dismiss* filed by defendant deputy sheriffs Al Bradley, Terry Wilson, and Wendy Roberson (Doc. 50) is GRANTED to the extent requested with respect to the First Amended Complaint, as follows:

1. The Section 1983 claims asserted under the Eighth Amendment are DISMISSED;
2. The Section 1983 claims asserted under the Fourteenth Amendment for monetary damages against Deputy Sheriffs Bradley, Wilson, and Roberson in their official capacities are DISMISSED with prejudice;
3. The Section 1983 claims asserted under the Fourteenth Amendment for injunctive and declaratory relief against Deputy Sheriffs Bradley, Wilson, and Roberson, in their official capacities, are DISMISSED without prejudice;

B. This action shall proceed against *(a) Defendant Bradley* only in his individual capacity on the Fourteenth Amendment claims asserted against him for monetary damages in Counts I, II, III, and V, *and (b) against Defendants Wilson and Roberson* only in their individual capacities on the Fourteenth Amendment claims asserted against them for monetary damages in Counts I, II, III, IV, and V.

DONE, this the 29th day of November, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE